

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

New York State Restaurant Association,  
*Plaintiff,*

- against -

Case No. 1:07-cv-05710 (RJH)

New York City Board of Health, *et al.*  
*Defendants.*

**MOTION TO ADMIT COUNSEL  
PRO HAC VICE**

PURSUANT TO RULE 1.3(c) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, I, Kevin C. Mallon, a member in good standing of the bar of this Court, hereby move for an Order allowing the admission pro hac vice of:

Applicant's Name: Deepak Gupta  
Firm Name: Public Citizen Litigation Group  
Address: 1600 20th Street, NW  
City/State/Zip: Washington, DC 20009  
Phone Number: (202) 588-1000  
Fax Number: (202) 588-7795

Mr. Gupta is a member in good standing of the Bar of the District of Columbia.

There are no pending disciplinary proceeding against Mr. Gupta in any State or Federal court.

Dated: July 24, 2007

City, State: New York, NY

Respectfully submitted,

  
Kevin C. Mallon

SDNY Bar No. KCM-4798

Firm Name: Fishman & Neil, LLP  
Address: 305 Broadway, Suite 900  
City/State/Zip: New York, NY 10007  
Phone Number: (212) 897-5840  
Fax Number: (212) 897-5141

FILED  
U.S. DISTRICT COURT  
S.D. OF N.Y.  
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UNITED STATES DISTRICT  
SOUTHERN DISTRICT OF NEW YORK

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New York State Restaurant Association,  
*Plaintiff,*

Case No. 1:07-cv-05710 (RJH)

- against -

New York City Board of Health, *et al.*  
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**AFFIDAVIT OF KEVIN MALLON  
IN SUPPORT OF MOTION TO ADMIT  
COUNSEL PRO HAC VICE**

State of New York     )  
                                  ) SS:  
County of New York    )

Kevin C. Mallon, being duly sworn, hereby deposes and says as follows:

1. I am an attorney at Fishman & Neil, counsel for *amici curiae* Rep. Henry Waxman, David Kessler, *et al.*, in the above captioned action. I am familiar with the proceedings in this case. I make this statement based on my personal knowledge of the facts set forth herein and in support of *amici*'s motion to admit Deepak Gupta as counsel pro hac vice to represent *amici* in this matter.
2. I am a member in good standing of the bar of the State of New York, and was admitted to practice law in 2004. I am also admitted to the bar of the United States District Court for the Southern District of New York, and am in good standing with this Court.
3. I know Mr. Gupta as a fellow member of the National Association Consumer Advocates and first became acquainted with him in March of this year.
4. Mr. Gupta is an attorney at Public Citizen Litigation Group in Washington, D.C.
5. I have found Mr. Gupta to be a skilled attorney and a person of integrity. He is experienced in Federal practice and is familiar with the Federal Rules of Procedure.
6. Accordingly, I am pleased to move the admission of Deepak Gupta, pro hac vice.
7. I respectfully submit a proposed order granting the admission of Deepak Gupta, pro hac vice, which is attached hereto as Exhibit A.

WHEREFORE it is respectfully requested that the motion to admit Deepak Gupta, pro hac vice, to represent *amici* in the above captioned matter, be granted.


Dated: July 24, 2007  
City, State: New York, N Y

Notarized:



JAMES B. FISHMAN  
Notary Public, State of New York  
No. 60-4941467  
Qualified in Westchester County  
Commission Expires August 15, 2004  
2005

Respectfully submitted,



Kevin C. Malon  
SDNY Bar No. KCM-4798



District of Columbia Court of Appeals  
Committee on Admissions  
500 Indiana Avenue, N.W. — Room 4200  
Washington, D. C. 20001  
202 / 879-2710

I, GARLAND PINKSTON, JR., Clerk of the District of Columbia  
Court of Appeals, do hereby certify that

Deepak Gupta

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was on the 12<sup>th</sup> day of December, 2005

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duly qualified and admitted as an attorney and counselor and  
entitled to practice before this Court and is, on the date  
indicated below, an active member in good standing of this Bar.

In Testimony Whereof, I have  
hereunto subscribed my name  
and affixed the seal of this  
Court at the City of  
Washington, D.C., on July  
24, 2007.

GARLAND PINKSTON, JR.

By:   
Deputy Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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New York State Restaurant Association,  
*Plaintiff,*

- against -

New York City Board of Health, *et al.*  
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Case No. 1:07-cv-05710 (RJH)

**ORDER FOR ADMISSION  
PRO HAC VICE**

Upon the motion of Kevin C. Mallon, attorney for *amici curiae* U.S. Representative Henry Waxman, David Kessler, M.D., et al., and said sponsor attorney's affidavit in support;

**IT IS HEREBY ORDERED** that

Applicant's Name: Deepak Gupta  
Firm Name: Public Citizen Litigation Group  
Address: 1600 20th Street, NW  
City/State/Zip: Washington, DC 20009  
Telephone/Fax: (202) 588-1000 / 588-7795  
Email Address: dgupta@citizen.org

is admitted to practice pro hac vice as counsel for in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. If this action is assigned to the Electronic Case Filing (ECF) system, counsel shall immediately apply for an ECF password at [nysd.uscourts.gov](http://nysd.uscourts.gov). Counsel shall forward the pro hac vice fee to the Clerk of Court.

Dated: July 24, 2007  
City, State: New York, NY

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United States District/Magistrate Judge

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FOR OFFICE USE ONLY: FEE PAID \$

SDNY RECEIPT#

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**CERTIFICATE OF SERVICE**

I, Kevin C. Mallon, hereby certify that on this date I caused the foregoing Motion to Admit Counsel Pro Hac Vice and supporting papers to be served via U.S. mail on the following parties:

Mark W. Muschenheim  
Assistant Corporation Counsel  
Corporation Counsel of the City of New York  
100 Church Street  
New York, NY 10007

Peter L. Zimroth  
Arnold & Porter, LLP  
399 Park Avenue  
New York, NY 10022  
(212) 715-1000

Date: July 24, 2007  
City, State: New York, NY

  
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Kevin C. Mallon